

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

BERT DALMAYER, *et al.*,

Plaintiffs,

v.

Case Number 08-12784

Honorable Thomas L. Ludington

STATE OF MICHIGAN, *et al.*,

Defendants.

_____ /

ORDER DENYING PLAINTIFFS' MOTION TO DISQUALIFY

On May 27, 2009, Plaintiffs filed a motion to disqualify the assigned judges for committing “fraud upon the court.” Dkt. # 96. Plaintiffs contend that Magistrate Judge Charles E. Binder and the undersigned have “failed to perform their Constitutional Duties (sic) in this Case Management Duties (sic) in this cause, and for their impartiality’s (sic) and Prejudice & Bias (sic) actions against the plaintiffs.” *Id.* at 27.

Motions to disqualify are matters committed to the sound discretion of the assigned judge. See *In re M. Ibrahim Khan, P.S.C.*, 751 F.2d 162, 165 (6th Cir. 1984). Disqualification must be predicated upon extrajudicial conduct rather than judicial conduct, and that allegations of bias “must be a personal bias as distinguished from a judicial one, arising out of the judge’s background and association and not from the judge’s view of the law.” *Easley v. Univ. of Mich. Bd. of Regents*, 853 F.2d 1351, 1355-56 (6th Cir. 1988).

Plaintiffs’ motion emphasizes the Court’s decisions in the instant case and that they disagree. Plaintiffs allege the Court’s decisions are the result of bias, however, they have not identified any extrajudicial conduct that would necessitate the recusal of this Court. Rather, Plaintiffs disagree with the Court’s application of the law in this matter. This is insufficient to demonstrate that this

Court should recuse itself.

Accordingly, it is **ORDERED** that Plaintiff's motion to disqualify [Dkt. # 96] is **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: June 23, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 23, 2009.

s/Tracy A. Jacobs
TRACY A. JACOBS